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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,890	06/07/2005	Aravind Soundararajan	US020513US	7209

65913 7590 11/17/2008
NXP, B.V.
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EXAMINER

MENDOZA, JUNIOR O

ART UNIT	PAPER NUMBER
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2423

NOTIFICATION DATE	DELIVERY MODE
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11/17/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip.department.us@nxp.com

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/537,890	Applicant(s) SOUNDARARAJAN, ARAVIND	
	Examiner JUNIOR O. MENDOZA	Art Unit 2423	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 October 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Andrew Y Koenig/
 Supervisory Patent Examiner, Art Unit 2423

Continuation of 11. does NOT place the application in condition for allowance because:

Regarding claim 18, the applicant discloses that the examiner fails to provide a valid reason for the proposed combination of McKissick and Danker; nonetheless, the examiner disagrees with the applicant's statement. The examiner maintains that such combination is obvious for the purpose of allowing the transportation of the messages through the cable distribution infrastructure with regular television programming, which avoids the need to include extra transmission mediums. Furthermore, Danker allows messages to be transported throughout the entire existing cable distribution infrastructure and broadcast the messages to everyone. Eventhough, everyone in the network receives the messages, only the receiver appointed to receive such message is allowed to have access to it. In other words there is no need to include different transmission mediums that will send the messages to each receipient individually and exclusively, in order to maintain privacy. Therefore, it would have been obvious at the time of the invention to combine McKissick and Danker.

Regarding claim 29, applicant claims that office action, which combines McKissick and Oshita, failed to present evidence that the message is not specifically targeted toward a destination set top box. However, the examiner maintains that the combination of McKissick and Oshita discloses that the message is targeted toward a destination set top box. More specifically, McKissick discloses that a user can send messages to other users or message recipients, paragraphs [0079] [0123] also exhibited on figures 6B, 17 and 18. Moreover, Oshita fulfills the deficiencies of McKissick, by teaching a packetizing device which multiplexes a message, i.e. teletext, video and audio together, and where the multiplexed stream is broadcasted from a source, i.e. head-end, to the identified users which are only the users that are part of the distribution network belonging to that source headend (Col. 1 lines 62-67, col. 2 lines 1-5, col. 3 lines 7-13).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., targeted messages) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding claim 2, applicant claims that office action, which combines McKissick and Oshita, failed to present evidence of assigning a reserved program identifier to the data packets and wherein the output transport stream in an MPEG-2 format. However, the examiner maintains that the combination of McKissick and Oshita discloses such element. More specifically, Oshita discloses that an encoder in combination with a packet assembler assembles video information into packets, adding header information, where a packet header contains program identifiers needed to put a program back together at the receiver side, and having the video formatted in MPEG-2 format, col. 1 lines 62-67, col. lines 1 - 21 and col. 3 lines 7-13.

Regarding claim 11, applicant traverses the 112 rejection made by the examiner on the previous office action. The applicant cited paragraph [0030] and figure 1 of the originally submitted application, which allegedly fulfils the written description requirement. The examiner notes that the cited parts of the specification does indeed disclose receiving a text message from another source set top box; however, the cited paragraph does not disclose receiving "another" text message from another source set top box, which is different in scope from receiving a text message from another source set top box. Therefore the examiner maintains the 112 rejection..